IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revn.No. 695 of 1995
Date of Decision: November 15, 2007

Lila Dhar

...Petitioner

Versus

State of Haryana

...Respondent

Coram: Hon'ble Mr. Justice Harbans Lal

Present: Mr.SS Brar, Advocate
for the petitioner.

Mr. A.K.Rathee, Assistant Advocate General, Haryana

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Harbans Lal, J.

This revision is directed against the judgment/ order dated 14/17.8.1992 vide which the Court of learned Sub Divisional Judicial Magistrate, Dabwali convicted and sentenced the petitioner to undergo rigorous imprisonment for a period of nine months and to pay a fine of Rs.1500/- or in its default to further undergo simple imprisonment for a period of three months under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (for short 'the Act') as well as the judgment dated 6.9.1995 rendered by the Court of learned Additional Sessions Judge, Sirsa vide which he accepted the appeal partly and reduced the period of substantive sentence from nine months to six months rigorous imprisonment and fine from Rs.1500/- to Rs.1000/-.

In nut shell, the facts of the prosecution case are that Tek Ram

Government Food Inspector alongwith Dr.Gianender Sharma inspected the premises of accused Liladhar, a Halwai shop near bus stand Mandi Dabwali on 8.12.1987 at about 1.50 P.M. in the presence of PW Madan Lal. The accused was found in possession of about 5 Kgs. of Bundi for public sale contained in a parat. As usual, complainant purchsed 1.500 gms. of Bundi as sample for analysis on payment of Rs.18/-. The sample was divided into three equal parts and was put in three dry, clean, empty bottles and the packets thereof were sealed as per Rules. Slips of Local Health Authority, Sirsa were pasted on the bottles and signatures of the accused were obtained thereon. One sealed bottle alongwith memorandum in Form-VII was sent to Public Analyst Haryana for analysis, whereas two other bottles with two copies of the said Form were deposited with Local Health Authority, Sirsa on 9.12.1987. A copy of the said Form and specimen seal impression were separately sent to the Public Analyst by registered post. As per report Ex.PF of the Public Analyst, the sample contained silver leaves, the use of which had been banned by Food (Health) Authority vide notification dated 17.8.1987. Thus, the accused contravened the said order of the Food (Health) Authority and thereby committed an offence under Section 16 of the Act.

The accused was charged under Section 16(1)(a)(i) read with Section 7 of the Act, to which he did not plead guilty and claimed trial. In support of its case, the prosecution examined three witnesses, namely, Tek Ram PW1, Dr. Gianender Sharma, Deputy CMO (Health), Sirsa PW2 and Sham Sunder, Clerk Local Health Authority Office, Sirsa PW3 and closed

its evidence by giving up Madan Lal PW as having been won over by the accused.When examined under Section 313 Cr.P.C., the accused denied all the incriminating circumstances appearing in the prosecution evidence against him and claimed innocence. Without adducing any defence, he closed his defence evidence.

Learned trial Magistrate after hearing the learned Government Food Inspector and defence counsel, convicted and sentenced the petitioner as noticed at the outset. Feeling aggrieved with the judgment/order dated 14/17.8.1992 passed by the trial Court, the petitioner preferred an appeal, which as noted (supra) has been partly allowed by the learned Additional Sessions Judge, Sirsa on 6.9.1995.

Aggrieved by the judgments/order of the Courts below, the petitioner preferred the instant criminal revision.

I have heard the learned counsel for the parties and have gone through the record with due care and circumspection.

Mr. SS Brar, Advocate appearing on behalf of the petitioner has not assailed the conviction of the petitioner recorded by the Courts below, consequently, the same is maintained.

He has submitted that in view of the observations made in re: **Harbans Lal vs. State of Haryana**, 2001(2) Recent Criminal Reports (Criminal), 333 (P&H), this incident being more than 19 years old, the sentence inflicted upon the petitioner may be reduced to already undergone. I have given a deep and thoughtful consideration to this submission.

In re:**Sita Ram vs. State** 2004(1) Recent Criminal Reports

(Criminal), 924 (Delhi), the accused faced trial for 18 years. His sentence was reduced to already undergone by the Delhi High Court. Reference may also be made to the observations rendered in re: **Mahavir vs. State through Govt. Food Inspector,** 2000(4) Recent Criminal Reports (Criminal) 208, **Ganesh Maity vs. U.T.Chandigarh**, 2003(1) Recent Criminal Reports (Criminal)418, **Suraj Bhan vs. State of Haryana**, 2003 Recent Criminal Reports (Criminal) 332, **Sher Singh vs. State of U.T. Chandigarh,** 2003(2) Recent Criminal Reports (Criminal) 826.

There is no denying the fact that the incident is more than 19 years old. Thus, obviously the petitioner has faced the agony of trial for a pretty long time. He has suffered both financial and mental agony on account of protracted trial. In my view, the ends of justice would be sufficiently met if while maintaining the conviction, the sentence imposed upon the petitioner is reduced to the period already undergone and the amount of fine is enhanced to Rs.5000/- and in its default to further undergo rigorous imprisonment for three months. With such modification in sentence, this revision petition is disposed of.

November 15, 2007 **(HARBANS LAL)**
gsv **JUDGE**

Whether to be referred to the Reporter? Yes/No